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5 SUPERIOR COURT OF WASHINGTON IN THURSTON COUNTY
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7 CITY OF BAINBRIDGE ISLAND; CITY OF
8 BREMERTON, CITY OF LAKEWOOD

9 Plaintiffs,

10 v.

11 STATE OF WASHINGTON,

12 Defendant.

NO.

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

13
14 **I. INTRODUCTION**

15 1.1 This is a complaint brought by the Cities of Bainbridge Island, Bremerton and
16 Lakewood (hereinafter "Cities") against the State of Washington. The Cities of Bainbridge Island
17 and Bremerton seek a declaratory judgment that Initiative 695 violates the Washington State
18 Constitution and seek an injunction barring enforcement of any portion of Initiative 695. In the
19 alternative, the Cities of Bainbridge Island, Bremerton and Lakewood seek a declaratory judgment
20 that charges for certain goods and proprietary services provided by the Cities are not subject to
21 Initiative 695. The Cities must have certainty as to which taxes, fees and monetary charges are
22 subject to voter approval.

23 **II. PARTIES**

24 2.1 Plaintiffs City of Bainbridge Island, Bremerton and Lakewood are cities of the State
25 of Washington. The Cities are persons as defined by RCW 7.24.130.

26 2.2 Defendant State of Washington is a state of the United States of America.

COMPLAINT FOR DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 1

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2 **III. JURISDICTION AND VENUE**

3 3.1 This court has jurisdiction pursuant to RCW 7.24.010.

4 3.2 Venue is proper in this court pursuant to RCW 4.92.010 (5).

5 **IV. FIRST CAUSE OF ACTION**

6 **(Violation of Art. II, § 37)**

7 For its First Cause of Action, Bainbridge Island and Bremerton state and allege as follows:

8 4.1 Initiative 695 ("I-695") was enacted into law by the voters on November 2, 1999. By
9 its terms, I-695 takes effect January 1, 2000.

10 4.2 Section 2 of I-695 requires voter approval of all tax increases. This requirement
11 purports to amend numerous statutes which provide "taxing" and other revenue related authorities to
12 Cities and other state and local entities which are necessary to support vital services, without
13 reference to any of these statutes.

14 4.3 Section 3 of I-695 repeals all or parts of statutes that provide funding for police and
15 fire protection, ferry and transit services, and other programs mandated and/or essential to the public
16 health, safety, and welfare of the residents of Cities.

17 4.4 The enactment of I-695 irreparably harms the public health, safety and welfare of the
18 residents of Cities, and has had an immediate adverse impact on the Cities' ability to provide
19 mandated and/or essential services.

20 4.5 Sections 2 and 3 of I-695 violate Const. Art. II, § 37 in that they fail to set forth at full
21 length the text of the statutes they purport to repeal or amend.

22 **V. SECOND CAUSE OF ACTION**

23 **(Violation of Art. II, § 19)**

24 For its Second Cause of Action, Bainbridge Island and Bremerton reallege their First Cause
25 of Action, and further state and allege as follows:
26

1 5.1 Section 1 of I-695 purports to repeal the current motor vehicle excise tax and
2 establishes an annual vehicle license fee of Thirty Dollars (\$30.00). Section 2 of I-695 provides that
3 any increase in taxes, fees and any monetary charge by government is subject to voter approval.
4 Section 3 of I-695 purports to amend or repeal numerous statutes that provide funding for services
5 essential to the public, health and safety of the residents of Cities.

6 5.2 I-695 violates Const. Art. II, § 19 in that it embraces more than one subject.

7 5.3 I-695 violates Const. Art. II, § 19 in that its title does not indicate that Section 2 of I-
8 695 would amend statutes authorizing taxing and other revenue related authorities for Cities and
9 other cities, or that Section 3 of I-695 would amend or repeal statutes that provide funding for
10 essential city services.

11 **VI. THIRD CAUSE OF ACTION**

12 **(Separation of Powers)**

13 For its Third Cause of Action, Bainbridge Island and Bremerton reallege their First and
14 Second Causes of Action, and further state and allege as follows:

15 6.1 Section 2 of I-695 requires voter approval for any increase in taxes, as broadly
16 defined in I-695.

17 6.2 I-695 violates Const. Art. VII, § 1 and Art. II, § 22 because the requirement that
18 voters approve any tax increases restricts the legislature's constitutional power to enact laws by
19 majority vote.

20 **VII. FOURTH CAUSE OF ACTION**

21 **(Violation of Article II, § 1)**

22 For its Fourth Cause of Action, Bainbridge Island and Bremerton reallege their First, Second
23 and Third Causes of Action, and further state and allege as follows:

24 7.1 Section 2 of I-695 requires voter approval for any increase in taxes.
25
26

1 7.2 I-695 is unconstitutional in that it attempts to amend the initiative and referendum
2 process set out in Const. Art. II, § 1 without satisfying the requirements of Const. Art. XXIII.

3 **VIII. FIFTH CAUSE OF ACTION**

4 **(Violation of Art. 1, § 23)**

5 For its Fifth Cause of Action, Bainbridge Island and Bremerton reallege their First, Second,
6 Third and Fourth Causes of Action, and further state and allege as follows:

7 8.1 Cities have issued bonds which provide that the principal and interest are to be paid
8 from specified sources of tax revenue and other sources of revenue, and further provide that Cities
9 will, if necessary, increase rates, charges and taxes to provide adequate funding to maintain principal
10 and interest payment on the bonds.

11 8.2 The requirement of § 2 of I-695 that fees, charges and tax increases as defined in
12 I-695 are subject to voter approval will likely be detrimental to the Cities' bond rating, causing the
13 residents of the Cities to pay substantially more for issuing bonds in the form of higher interest rates.
14 This substantially impairs the ability of Cities and other cities in the State to meet their bond
15 obligations incurred for municipal purposes.

16 8.3 The requirement of I-695 that all fees, charges and tax increases as defined in I-695
17 are subject to voter approval will violate Const. Art. I, § 23 by impairing the contracts between the
18 Cities and its bondholders for the payment of principal and interest.

19 **IX. SIXTH CAUSE OF ACTION**

20 **(Violation of Art. XXIII)**

21 For its Sixth Cause of Action, Bainbridge Island and Bremerton reallege their First, Second,
22 Third, Fourth and Fifth Causes of Action, and further state and allege in the alternative as follows:

23 9.1 Section 2 of I-695 purports to require that any increase in taxes, fees and any
24 monetary charges by government requires voter approval.

25 9.2 Section 2 of I-695 attempts to amend Const. Art. XI, § 10 and Art. 8, § 1(f).
26

1 9.3 I-695 is unconstitutional in that it attempts to amend the Constitution without
2 satisfying the requirements of Art. XXIII.

3 **IX. SEVENTH CAUSE OF ACTION**

4 **(Charges For Goods and Services)**

5 For its Seventh Cause of Action, Bainbridge Island, Bremerton and Lakewood further state
6 and allege in the alternative as follows:

7 10.1 Section 2 of I-695 purports to require that any increase in taxes, fees and any
8 monetary charges by government requires voter approval.

9 10.2 If Section 2 of I-695 is constitutional pursuant to the above causes of action, it is
10 ambiguous because it is subject to more than one reasonable interpretation. An example of the
11 ambiguity in Section 2 includes paragraph 4, which attempts to define a "tax increase." Section 2 is
12 also vague because it is not able to be determined what is meant by or included within the terms and
13 provisions of this section. In addition, the language in Section 2 potentially makes distinctions in
14 classifications for which there is no apparent reason or authority.

15 10.3 Cities must have certainty as to which taxes, fees and monetary charges are subject to
16 voter approval.

17 10.4 Charges made by Cities for goods and proprietary services are not subject to I-695
18 Section 2. In addition, other governmental fees, charges and taxes are determined by factors outside
19 the control of local government, and these fees, charges and taxes should not be included in the voter
20 approval requirements of Section 2.

21 **X. PRAYER FOR RELIEF**

22 WHEREFORE, the Cities of Bainbridge Island and Bremerton pray that the Court:

23 1. Declare that Initiative 695 violates the Washington State Constitution and is,
24 therefore, null and void;

1 2. Enjoin the State of Washington and its officials from complying with or enforcing any
2 provision of Initiative 695; or in the alternative;

3 WHEREFORE, the Cities of Bainbridge Island, Bremerton and Lakewood pray that the
4 Court:

5 3. Declare that the provisions of Initiative 695 do not impair the authority of Cities to
6 increase charges for goods and proprietary services;

7 4. Award Cities their litigation costs; and

8 5. Award such other and different relief as this court deems just and appropriate.

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10 DATED this 14th day of December, 1999.

11 LANE POWELL SPEARS LUBERSKY LLP

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13 By _____

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19 of Lakewood
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